

## Kansas Noxious Weed Enforcement & Invasive Weed Update

Jeff Vogel  
Plant Protection and Weed Control



## Goal of the Noxious Weed Law

- K.S.A. 2-1314 says "Control the spread of and to eradicate all weeds declared by legislative action to be noxious"



Field bindweed –  
1<sup>st</sup> noxious weed

10/21/2010



## Notification

- K.S.A. 2-1331
  - "When a county weed supervisor has knowledge that any land in the supervisor's county is infested, in any current year, with any noxious weed, the supervisor **shall** give notice, by publication of a general notice in the official county newspaper pursuant to sub section (b) or an official notice by mail, of such infestation to the person, association of persons, governmental agency, corporation or agent thereof, who owns the land."

10/21/2010



## Notice Options

- General
- Warning (Official)
- Legal



Musk Thistle

10/21/2010



## General Notice

- K.S.A. 2-1331 (b)
  - KDA notifies counties before March 1
  - County may publish notice in March
  - Does not have to be in the legal notice section of the paper
  - Does have to be in the official county news paper
  - Recommended to publish 3 times
  - Remains in effect until March 31 of the following year

10/21/2010



## KDA General Notice Example

### GENERAL NOTICE TO CONTROL NOXIOUS WEEDS

The Kansas Noxious Weed Law K.S.A. 2-1314 et seq requires all persons who own or supervise land in Kansas to control and eradicate all weeds declared noxious by legislative action. The weeds declared noxious are: field bindweed, musk thistle, sericea lespedeza, johnson grass, bur ragweed, Canada thistle, leafy spurge, hoary cress, quack grass, Russian knapweed, kudzu and pignut, and/or \_\_\_\_\_, is/are a County Option Noxious Weed/Weeds declared noxious by the Board of County Commissioners of \_\_\_\_\_ County. Notice is hereby given pursuant to the Kansas Noxious Weed Law to every person who owns or supervises land in \_\_\_\_\_ County that noxious weeds growing or found on such land shall be controlled and eradicated. Control is defined as preventing the production of viable seed and the vegetative spread of the plant.

Failure to observe this notice may result in the County:

1. Serving a legal notice requiring control of the noxious weeds within a minimum of five days. Failure to control the noxious weeds within the time period allowed may result in the county treating the noxious weeds at the landowners expense and placing a lien on the property if the bill is not paid within 30 days or
2. Filing criminal charges for non compliance. Conviction for non compliance may result in a fine of \$100 per day of non-compliance with a maximum fine of \$1500.


The public is also hereby notified that it is a violation of the Kansas Noxious Weed Law to barter, sell or give away infested nursery stock or livestock feed unless the feed is fed on the farm where grown or sold to a commercial processor that will destroy the viability of the noxious weed seed. Custom harvesting machines must be labeled with a label provided by the Kansas Dept. of Agriculture and must be free of all weed seed and litter when entering the State and when leaving a field infested with noxious weeds. Additional information may be obtained from the \_\_\_\_\_ County Noxious Weed Department or by contacting the Kansas Dept. of Agriculture, 109 S.W. 9 th, Topeka, KS 66612.

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## Warning (Official) Notice

- Necessary if the General Notice was not published
- May be used in addition to the General Notice



Leafy Spurge

10/21/2010

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## Official Notice

OFFICIAL NOTICE FOR CONTROL AND ERADICATION OF NOXIOUS WEEDS

OWNER: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
OPERATOR OR SUPERVISING AGENT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
LOCATION OF LAND: \_\_\_\_\_ Sec. \_\_\_\_\_ Township \_\_\_\_\_ Range in \_\_\_\_\_ County, KS

You are hereby officially notified that an infestation of \_\_\_\_\_ has been located on the above-described land owned or operated by you.

K.S.A. 2-1314 requires all persons to control the spread of and to eradicate all weeds declared by legislative action to be noxious on all lands owned or supervised by them and to use such methods for that purpose and at such time as are approved and adopted by the Kansas Department of Agriculture.

K.S.A. 2-1323 provides: "Any person, association of persons, corporation, county or city official who shall violate or fail to comply with any of the provisions of this act and acts amendatory thereof or supplemental thereto shall be guilty of a misdemeanor and shall be punished upon conviction thereof by a fine of \$100 per day for each day of noncompliance up to a maximum fine of \$1500."

METHOD OF CONTROL OR ERADICATION TO BE FOLLOWED: \_\_\_\_\_

THIS METHOD OF CONTROL OR ERADICATION MUST BE COMPLETED BY: \_\_\_\_\_

NOTIFY COUNTY WEED DIRECTOR WHEN THIS WORK IS COMPLETED.

County Weed Director \_\_\_\_\_ Date \_\_\_\_\_  
Owner or Supervising Agent \_\_\_\_\_ Date \_\_\_\_\_

Original - Operator or Supervising Agent  
1 Copy - Owner of Affected Real Estate  
2 Copy - County Attorney  
2 Copy - County Weed Supervisor

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## Still No Control?

- Legal Notice
- Prosecution if weeds went to seed




Hoary Cress

10/21/2010

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## Legal Notice

- Weed Director may give legal notice
  - After official or general notice



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## KDA Example Legal Notice

LEGAL NOTICE TO ERADICATE NOXIOUS WEEDS (Pursuant to K.S.A. 1995 Supp. 2-1331)

To: \_\_\_\_\_ (Owner)  
Address: \_\_\_\_\_  
and To: \_\_\_\_\_ (Operator or supervising agent, if any)  
Address: \_\_\_\_\_

Each of you are hereby notified that the following described real estate situated in \_\_\_\_\_ County, Kansas, to wit: (legal description) \_\_\_\_\_

has been found to be wholly or partially infested with \_\_\_\_\_ (name of noxious weed(s)); said infestation covers approximately \_\_\_\_\_ acres. The name of the owner of this land as shown by the records of the County Clerk is \_\_\_\_\_ The name of the operator or supervising agent of the noxious weed-infested land as shown by the records of the County Clerk is \_\_\_\_\_

Each of you are hereby further notified that you will have until the \_\_\_\_\_ day of \_\_\_\_\_, to complete some method of control or eradication for each noxious weed named above; only official methods of control and eradication for each noxious weed specified above may be used. A copy of the Official Control and Eradication Methods for each weed is attached hereto and made a part hereof. You are hereby further notified that unless you complete an approved control method for each infestation of noxious weed listed above affecting the above-described real estate on or before the \_\_\_\_\_ day of \_\_\_\_\_ (time shall be not less than five days after mailing of the notice), the County Weed Supervisor or \_\_\_\_\_ County, Kansas, may thereafter enter upon the above-described real estate, or cause the above-described real estate to be entered upon, as often as necessary, and will proceed with the use of an approved method, chosen by the County Weed Supervisor as may be best adapted for the eradication and control of the above-listed noxious weed(s) on the above-described real estate. In addition, you may be prosecuted pursuant to K.S.A. 2-1323 and amendments thereto, and if convicted, fined \$100 per day for each day of noncompliance up to a maximum fine of \$1500.

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## KDA Example Legal Notice

Each of you are hereby further notified that in the event it becomes necessary for the County Weed Supervisor to enter upon or cause entry upon the above-described real estate for the eradication and control of any infestation of noxious weeds, that the costs of such treatment by the County Weed Supervisor will be sent to you. The statement of costs shall include the total cost of material used, cost of labor and the charge for the use of the equipment. In addition, the statement shall include a penalty charge of ten percent (10%) of the total amount of said treatment costs. The unpaid balance of any such treatment costs including such penalty charge shall draw interest from the date of treatment at the rate described for delinquent taxes pursuant to K.S.A. 79-2968 1985 supp. and amendments thereto. Unless you pay the above-named county on or before the \_\_\_\_\_ day of \_\_\_\_\_, such costs or unpaid balance thereof shall be spread upon the tax rolls of such county and shall become a lien against the above-described real estate, as provided by law.

Date: \_\_\_\_\_

\_\_\_\_\_  
County Weed Supervisor of \_\_\_\_\_ County, Kansas

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## Legal Notice

- Notify by regular mail or phone if the General Notice was published (Warning Notice)
- Always inspect prior to sending
- You have the right of entry to inspect
- Approximate acres (guess high)
- Minimum time to control 5 days (working days)
- Landowner may use any approved method

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## Fall Legal Notice

- K.S.A. 2-1331(d)
- Option if musk thistle went to seed
- May give legal notice to control musk thistle rosettes in the fall
- Recommend sending near window of control
- Set an appropriate deadline so that control can be arranged before control window closes
- Expires after current year



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## Still No Control After Legal Notice?

- Counties can spray or hire an applicator
- Always inspect before application
- Send an itemized statement with request for payment in 30 days
- If not paid, place the entire amount of the bill as a lien against the property
- Present to the Co. Clerk to place on the tax rolls for the property

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## Notice and Itemized Statements

- Legal notice
  - Full cost plus 10%
  - Collect interest on the unpaid amount from the date of application if not paid in 30 days
  - Place a lien on the property
  - Will be placed on the tax rolls

10/21/2010



### NOTICE AND ITEMIZED STATEMENT (Pursuant to K.S.A. 2-1332)

TO: \_\_\_\_\_ Owner of Record  
 \_\_\_\_\_ Address of Record

PROPERTY \_\_\_\_\_  
 \_\_\_\_\_ all in \_\_\_\_\_ County, Kansas

#### TO WHOM THIS MAY CONCERN:

You are hereby notified that pursuant to K.S.A. 2-1332 following legal notice as required by statute, I did enter or cause to be entered the above-described property on \_\_\_\_\_ to control a noxious weed infestation.  
 (Date of Treatment)

#### STATEMENT

The itemized costs of treatment for the above described property were as follows:

Material \$ \_\_\_\_\_ PLEASE MAKE PAYMENT WITHIN 30 DAYS TO:  
 Labor \$ \_\_\_\_\_  
 Equipment \$ \_\_\_\_\_  
 Total Cost \$ \_\_\_\_\_

Statutory 10% Penalty \$ \_\_\_\_\_

Total You Now Owe \$ \_\_\_\_\_

Please take notice that the unpaid balance of treatment costs and penalty charge shall draw interest at the rate of 12% per annum from the date of treatment. (Rate set by K.S.A. 79-2004).

Date \_\_\_\_\_ County Weed Supervisor \_\_\_\_\_

10/21/2010



#### CERTIFICATE OF NOTIFICATION

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I hereby certify that the original of the above and foregoing **Notice and Itemized Statement** was sent certified in the United States mail, postage prepaid and return receipt requested, addressed as follows:

(Name)  
 (Address)

with one copy each hand-delivered to:

County Clerk \_\_\_\_\_ County, Kansas  
 Register of Deeds \_\_\_\_\_ County, Kansas

all as required by K.S.A. 2-1332 a copy of which is reproduced on the back of this document.

\_\_\_\_\_  
 County Weed Supervisor

10/21/2010



## Unpaid Bills on Dec. 31

- Send a statement
  - 10% penalty if not paid within 30 days
  - Becomes a lien on the property
  - Will be placed on the tax rolls



Johnsongrass

10/21/2010



### NOTICE AND ITEMIZED STATEMENT (PURSUANT TO K.S.A. 2-1320) Owner of Record

TO: \_\_\_\_\_  
PROPERTY \_\_\_\_\_  
all in \_\_\_\_\_ County, Kansas  
You are hereby notified that as of December 31, 20\_\_\_\_, your account with the County/City Weed Department for labor and/or materials to control a noxious weed infestation on the above described property remains unpaid.

**STATEMENT**  
The itemized costs of treatment outstanding and unpaid as of December 31, 20\_\_\_\_, are as follows:

**PLEASE MAKE PAYMENT WITHIN 30 DAYS TO:**  
Material \_\_\_\_\_  
Labor \_\_\_\_\_  
Equipment \_\_\_\_\_

Total you now owe \_\_\_\_\_  
If the total amount shown above is not paid within 30 days from the date of this notice a penalty charge of \$ \_\_\_\_\_ (10%) will be added to your account pursuant to K.S.A. 2-1320 and the total sum of \$ \_\_\_\_\_ will become a lien upon the above described property.  
Please take notice that the unpaid balance of treatment costs and penalty will draw interest at the rate of 12% per annual (set by K.S.A. 79-2004) from \_\_\_\_\_ (Date of Contract/Agreement).

Date \_\_\_\_\_ County Weed Supervisor  
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I hereby certify that as the direction of the county commissioners of \_\_\_\_\_ County, Kansas, I did mail the original above and foregoing **Notice and Itemized Statement** certified in the United States mail, postage prepaid and return receipt requested, addressed as follows:  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
with one copy each hand-delivered to:  
County Clerk \_\_\_\_\_ County, Kansas  
Register of Deeds \_\_\_\_\_ County, Kansas  
all as required by K.S.A. 2-1320 a copy of which is reproduced on the back of this document.

County Weed Supervisor

10/21/2010



## Still No Payment...

- Tax Rolls
  - Legal notice - can collect an amount equal to 10% of the assessed valuation of the property
  - Any other unpaid bill - can collect an amount equal to 5% of the assessed valuation of the property

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## Payment Advisory

- Notifies Clerk and Treasurer that the bill has been paid



Canada Thistle

10/21/2010



### WEED SUPERVISOR'S PAYMENT ADVISORY

TO: County Clerk \_\_\_\_\_ County, Kansas  
Register of Deeds \_\_\_\_\_ County, Kansas  
Property \_\_\_\_\_  
all in \_\_\_\_\_ County, Kansas

Please be advised that payment in full has been received for all material, labor, equipment, penalty and interest due in connection with a **Notice and Itemized Statement** filed with your office pursuant to K.S.A. 2-1320 or K.S.A. 2-1332, as amended, on \_\_\_\_\_ (Date filed).  
Your kind attention to this matter is appreciated as is your assistance in our efforts to control noxious weeds in Kansas. **Payment in full having been received no further action on your part is required.**

Date \_\_\_\_\_ County Weed Supervisor

### CERTIFICATION OF NOTIFICATION

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I hereby certify that a copy of the above and foregoing **Weed Supervisor's Payment Advisory** was sent in the United States mail, postage prepaid, to the following:  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
and the original hand delivered to the Registered of Deeds office \_\_\_\_\_ County, Kansas.

County Weed Supervisor

10/21/2010



## Release of Lien

- The Weed Dept. placed the lien on the property, the Weed Dept. has to release the lien when the bill has been paid



Russian knapweed

10/21/2010

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**WEED SUPERVISOR'S  
RELEASE OF LIEN**

TO: Register of Deeds \_\_\_\_\_ County, Kansas  
PROPERTY \_\_\_\_\_  
\_\_\_\_\_ all in \_\_\_\_\_ County,

Please be advised that payment in full has been received for material, labor, equipment, penalty interest due in connection with a Notice and Itemized Statement filed of record in your office to K.S.A. 2-1320 or K.S.A. 2-1332 as amended and recorded at Vol. \_\_\_\_\_ Page \_\_\_\_\_. You are hereby notified and directed to release any claim or lien against the above described there might be by virtue of the above described notice and itemized statement.


Date \_\_\_\_\_ County Weed Supervisor  
**CERTIFICATION OF NOTIFICATION**  
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I hereby certify that a copy of the above and foregoing Weed Supervisor's Release of Lien was sent in the United States mail, postage \_\_\_\_\_ the following:  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
and the original hand delivered to the Registered of Deeds office \_\_\_\_\_ County,  
County Weed Supervisor \_\_\_\_\_

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## Diversions

- Diversion is an agreement between the defendant and the county.
- Defendant pleads guilty to violating the noxious weed law and agrees to treat the noxious weeds to the weed directors satisfaction for (?) years




Bull Thistle

10/21/2010

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## Diversions

- If the weeds are treated satisfactorily for the time period, the charges are dropped.
- If the weeds are not treated to your satisfaction, the case proceeds to court.



Sericea Lespedeza

10/21/2010

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## Final thoughts

- KDA is here to help
- Only enforce to get good weed control
- If you make up your own forms, be sure to have the County Counselor review them before you use them.
- Have a plan, set priorities

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## Kansas Noxious Weed Law Enforcement

### Questions?

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